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HUMAN RIGHTS COMMITTEE
Fifty-third session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

YEMEN

1. The Committee considered the second periodic report of Yemen (CCPR/C/82/Add.1) at its 1372nd and 1373rd meetings, on 26 October 1994, and at its 1403rd and 1404th meetings, on 30 March 1995 (see CCPR/C/SR.1372, 1373, 1403 and 1404). At its 1414th meeting, on 6 April 1995, the Committee adopted the following comments:

A. Introduction

2. The Committee welcomes the second periodic report submitted by the State party and the delegation's willingness to resume its dialogue with the Committee. The Committee regrets, however, that although the report provides information on general legislative norms in Yemen, it fails to deal with the actual state of implementation of the Covenant in practice and the difficulties encountered in the course of implementation. The Committee appreciated the presence of a competent delegation which provided helpful information to the Committee in addressing some of its questions. Nevertheless, the Committee has obtained only a partial picture of the human rights situation in the country.

3. The Committee welcomes in this connection the intention expressed by the delegation to send additional information as requested by the Committee, particularly information on the difficulties encountered in the implementation of the Covenant, statistics relating to specific articles, and the texts of the Civil Code, the Code on Criminal Procedure, the amendments to the Constitution, and other relevant laws and regulations.

B. Factors and difficulties affecting the implementation of the Covenant

4. The Committee notes that the civil war has left much of the infrastructure destroyed and created severe economic difficulties, which have served to restrict the resources allocated to the protection of human rights. The Committee also notes that national reconstruction and reconciliation remain handicapped by internal disorder.

5. The Committee notes the existence in the State party of customs and traditions, particularly in the area of equality between men and women, which may tend to impede the proper observance of international standards of human rights.

C. Positive aspects

6. The Committee welcomes the succession of Yemen to the Covenant, which was previously acceded to by the Democratic Republic of Yemen in 1986.

7. The Committee welcomes the Government's efforts to raise awareness of human rights issues by disseminating the texts of human rights treaties, including the Covenant, and by holding seminars in this field. It further welcomes the Government's assertion that newspapers are free to publish the reports submitted by the Government and other information released by human rights groups and international organizations.

8. The Committee welcomes the delegation's indication of the Government's willingness to investigate specific cases of human rights violations brought to its attention. In this regard, the Committee notes the assurances of the delegation that the courts are receiving cases of human rights violations which took place during the civil war.

D. Principal subjects of concern

9. The Committee is concerned that some aspects of the legal provisions in the State party do not conform entirely with the Covenant.

10. The Committee calls attention to the contradictions between the Covenant and the Constitution, which affords a lower level of human rights protection than does the Covenant. The Committee expresses concern that victims of human rights violations, despite the direct applicability of the Covenant, may be denied effective remedy if the courts adhere to the standards set forth in the Constitution.

11. The Committee notes with concern the general amnesty granted to civilian and military personnel for human rights violations they may have committed against civilians during the civil war. The Committee notes in this regard that some amnesty laws may prevent appropriate investigation and punishment of perpetrators of past human rights violations, undermine efforts to establish respect for human rights, contribute to an atmosphere of impunity among

perpetrators of human rights violations, and constitute impediments to efforts undertaken to consolidate democracy and promote respect for human rights.

12. The Committee notes with concern that the role and the competences of the political security forces have not been clarified.

13. The Committee expresses its deep concern at allegations of arbitrary deprivation of life, acts of torture or other cruel, inhuman or degrading treatment, arbitrary arrest and detention, abusive treatment of persons deprived of their liberty, and violations of the right to a fair trial. It is deeply concerned that those violations were not followed by inquiries or investigations, that the perpetrators of such acts were not punished, and that the victims were not compensated. Ill-treatment of prisoners and overcrowding of prisons continue to be of concern.

14. The Committee notes with concern reports of female genital mutilation, which appears to be a common practice in some parts of the country. It also notes with concern that the provisions of the Personal Status Act No. 20 of 1992, particularly articles 40 and 41, establish unequal obligations of wives and husbands where wives are relegated to an inferior position. The Committee is concerned that the requirements of this Act, particularly that wives must obey their husbands' orders and may not leave their homes except in limited situations, contradict articles 3 and 23 of the Covenant. The Committee further regrets that the laws of Yemen contain no specific provisions for dealing with domestic violence.

15. The Committee is concerned about the lack of information concerning the death penalty in Yemen and, bearing in mind that article 6 of the Covenant limits the circumstances under which the death penalty may be imposed, regrets that it is unable to assess whether the State party is in conformity with article 6, owing to the lack of information on the specific crimes that may result in the imposition of the death penalty and on the number of cases in which it was imposed. The Committee deplores the fact that, according to information before it, executions of persons below the age of 18 have taken place that would be a clear violation of article 6, paragraph 5, of the Covenant. The Committee requests that the State party provide information on the cases mentioned during the dialogue. In this regard, the Committee regrets that the right to life has not been incorporated into the new Constitution. The Committee is also deeply concerned about the maintenance of corporal punishments like amputation of limbs and whipping, which is in violation of article 7 of the Covenant.

16. The Committee notes with deep concern the widespread employment of minors, especially in rural areas.

E. Suggestions and recommendations

17. The Committee recommends that a thorough review be undertaken of the legal framework for the protection of human rights in the State party to ensure full conformity with the Covenant. The Committee takes note of the indication by the delegation of the lack of technical expertise in the legal field in the State

party and its appeal for assistance in this area. In this connection, the Committee recommends that the State party avail itself of the technical cooperation services of the Centre for Human Rights of the Secretariat and address through the Centre's programmes the question of the status of the Covenant in relation to the Constitution.

18. Regarding the application of the Covenant, the Committee requests that it be informed in future periodic reports of the State party of any instances that may arise where the Covenant was directly invoked in the courts, as well as the results of any such proceedings.

19. The Committee recommends that the State party endeavour to bring to justice perpetrators of human rights abuses, in accordance with article 2, paragraph 2, of the Covenant. It urges the State party to continue to investigate allegations of human rights violations, past and present, to act on the findings of its investigations, to bring to justice the perpetrators and to compensate the victims of such acts. Towards this end, the Committee recommends that an independent mechanism be instituted for receiving complaints of human rights violations and that this mechanism be given investigative authority to pursue such complaints. The Committee suggests that the Government pursue in this manner not only individual complaints but also violations reported by national and international non-governmental organizations.

20. The Committee recommends that the State party review its laws and make appropriate amendments to ensure full legal and de facto equality for women in all aspects of society, particularly in the laws governing the status of women, women's rights and obligations in marriage. The Committee further recommends that the Government conduct a study on the practice of female genital mutilation within its territory and formulate specific plans to eradicate this practice.

21. The Committee recommends that the Government review its policy on the death penalty with a view to its eventual abolishment. Recalling that article 6 of the Covenant limits the circumstances under which the death penalty may be imposed, it recommends that the Government include in its next report a list of all of the crimes that, when tried, may result in the imposition of the death penalty. If the imposition of the death penalty in respect of some of those crimes is found to be inconsistent with article 6, the Committee recommends that the relevant laws be appropriately amended. The Committee recommends that the Government take the initiative for the total abolishment of corporal punishment.

22. The Committee recommends that the Government conduct a study on the phenomenon of working children, especially children in rural areas, and include its findings in its next periodic report to the Committee.

23. The Committee recommends that more detailed information about specific laws and more concrete and factual information about the enjoyment of rights be provided by Yemen in its next periodic report so as to enable the Committee clearly to understand the progress made in the implementation of the Covenant in the State party.

24. The Committee recommends that appropriate mechanisms be established to revise the relevant legal codes, to provide human rights training for personnel involved in the administration of justice, to draft the State party's reports to various human rights treaty bodies, and to collect and analyse data on human rights issues. In this regard, the Committee recommends that the Government draw on the assistance available through the technical cooperation services of the Centre for Human Rights.